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December 13, 2023

VIA ECF

Honorable Paul A. Engelmayer
United States District Court
Southern District of New York
40 Foley Square, Room 2201
New York, NY 10007

Re: *Kitchen Winners NY Inc. v. Rock Fintek LLC*, Case No. 22-cv-05276-PAE
Request for Leave to Supplement Anticipated Laboratory Expert Report

Dear Judge Engelmayer:

On behalf of Rock Fintek LLC, I humbly submit this letter to request leave through January 1, 2024 to supplement an expert report from our laboratory expert Akron Rubber Development Laboratory, Inc. ("ARDL") that we plan to serve timely on Monday, December 18, with additional forthcoming laboratory testing results.

Rock Fintek retained ARDL Senior Technical Advisor Jason Poulton to provide expert testimony regarding the results of physical and chemical testing conducted on the gloves at issue. In 2021 and 2022, ARDL tested glove samples for physical specifications (ASTM D6319), polymer composition, and Nitrogen content, which revealed that the gloves sold to Rock Fintek were fake Polyvinyl Chloride gloves with no detectible Nitrogen content and failed physical testing. In discovery, the parties collected additional gloves from warehouses and Rock Fintek submitted additional samples for testing. From prior discussions with ARDL, we understood that the testing process is routine for ARDL and is typically be completed in a matter of days.

I was unexpectedly informed yesterday by Mr. Poulton that due to an ongoing A2LA accreditation audit of ARDL, significant staff turnover, and vacations of pertinent staff in early and mid-December, the additional testing will not be completed until January 1, 2024. Had we known about these issues, we would have made different arrangements. To be clear, we intend to serve ARDL's expert report within the existing deadline, and only request leave to supplement with additional results, which are expected to be consistent with prior testing.

I sincerely apologize to the Court for making this request and respectfully ask that the Court exercise its discretion and grant leave to supplement, particularly where a denial could unduly prejudice Rock Fintek, while granting leave to supplement would not delay this case nor prejudice the other parties who have been aware of ARDL's involvement and testing through discovery. Counsel for the other parties do not assent to this request. I will be prepared to discuss this issue at the December 20, 2023 conference should the Court decide to defer ruling on it until then.

Respectfully submitted,

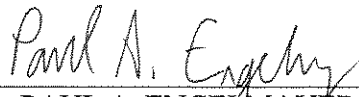
/s/Phillip Rakhunov

Phillip Rakhunov

cc: All counsel (via ECF)

The Court will take up this request at the December 20, 2023 conference. All other parties to this case should be prepared to discuss how they would be prejudiced by the requested extension. For avoidance of doubt, Rock Fintek's expert report remains due on December 18, 2023, and Rock Fintek should not assume that its request for an extension until January 1, 2024 to supplement the report with additional testing results will be granted.

SO ORDERED.



PAUL A. ENGELMAYER
United States District Judge

Dated: December 14, 2023